

IN SENATE OF THE UNITED STATES.

APRIL 11, 1848.

Submitted, and ordered to be printed.

Mr. BELL made the following

REPORT :

[To accompany bill S. No. 212.]

*The Committee on Indian Affairs, to whom was referred the memorial of Samuel Findlay, have had the same under consideration, and make the following report:*

P. Chouteau, jr., & Co., are the holders of a draft, drawn by the chief, and others in authority among the Shawnee Indians, on the Commissioner of Indian Affairs, dated 20th June, 1842, and payable out of the fund arising from the sale of their lands, according to the treaty of the 8th of August, 1831. The memorialist alleges that he is beneficially interested in the draft, and that it was given for goods and other supplies furnished by him and others, chiefly in the year 1837. The justice of the debt, besides the admission implied in the draft, is further confirmed by the earnest appeal made to the government by the chief, &c., of the tribe, contained in their petition of the 30th March, 1844, to pay it out of their permanent fund, alleging, at the same time, their inability to pay it otherwise. The Commissioner of Indian Affairs refused to pay the draft, on the ground that the fund out of which it was sought to be paid was, by the provisions of the treaty before cited, to be a permanent fund for the future necessities of the tribe, the government being bound to pay the interest thereon annually, at the rate of five per cent., in the form of an annuity; and the further difficulty is presented that the fund referred to, amounting to \$36,892 40, was vested by the government in State stocks, which have since depreciated, and cannot be sold for their nominal amount. By the 7th article of the treaty of 1831, the fund arising from the sales of the land ceded by the Shawnees, after making certain deductions, was to be held by the government, as stated by the Commissioner of Indian Affairs; but there was no authority given by the treaty for vesting it in State stocks, and, therefore, the committee are of opinion that the government is bound to account for the full nominal amount which come under its control; but it is further provided in the 7th article of the treaty, that the fund so derived shall continue during the pleasure of Congress,

unless the chiefs of the tribe, with the consent of their people in general council assembled, should desire the fund thus created to be paid over to them; on which the President shall cause the same to be so paid, "*if, in his discretion, he shall believe the happiness and prosperity of the said tribe would be promoted thereby.*" There is more weight in the objection taken by the Commissioner of Indian Affairs, to the payment of the draft in question, though demanded by the concurrent view of the whole tribe, founded upon the general policy of the government, which is, as stated by him, not to suffer the permanent fund or annuities, secured by treaties to the various Indian tribes under its jurisdiction, to be invaded or diminished by the payment of debts contracted with traders, or others having claims upon them. This, the committee think, is a sound policy, and should not be disturbed by Congress but in cases which should justly form an exception. It is urged by the memorialist that this claim should be made an exception to the general rule, upon the two following grounds: 1. The Shawnees are favorably situated, both in respect to the location and the quality of their lands; and, having long since abandoned the chase, and addicted themselves to agriculture as the main reliance for subsistence, it is strongly urged that the annuities, distributed annually among them by the government, is rather a hindrance than an encouragement to habits of industry. The mere pittance which each member of the tribe thus receives, it is alleged, while it is wholly insufficient, delusive as a means of support during the year, is still clung to and relied upon by the idle and improvident, who, by its withdrawal, would at once be constrained to become industrious and orderly members of the tribe; and it is for this reason that the chiefs, seconded by the general council of the tribe, insist, in their petition of the 30th March, 1844, upon the payment over to them of the entire fund under the control of the government, to be applied by them to such improvements as they believe would most advance the general prosperity. 2. It is insisted that the Shawnees became indebted beyond their ordinary means of payment by the conduct of the government itself. The petition forwarded in 1844 sets forth, that in 1837, ninety-one members of their tribe were influenced and tempted, by the pressing solicitations of their agent, and the extravagant pay promised by the Secretary of War, to form a company for a term of six months' service in the Florida war, against the views and feelings of their people generally. To equip and send them off immediately, as desired and directed by the War Department, could not be done without going largely in debt to their traders for necessary supplies, and the families, also, of the absent members of the tribe had to be subsisted in the same way. The pay promised to each private of the company which proceeded to Florida, for the six months' service, was \$270. After they had been in the service about four months they were notified of the mistake of the Secretary of War, and that he was not authorized by law to pay more than \$70 22 for the term of six months, instead of the \$270. By a special appropriation of Congress they were afterwards paid for four months of their term of service, at the

rate of \$270 for six months, and, for the remaining two months, at the rate of \$70 22 only; and it is alleged, in the petition before referred to, that if the government would pay the full amount promised by the Secretary of War when the company was recruited, the amount of the debt for which the draft was given might be paid by the tribe without interfering with the fund created by the treaty of 1831. The committee find that the above statements are, in their most material aspect, fully sustained by the proofs before them. The sum of not more than about \$6,000 remains unpaid of the whole amount promised the company of Shawnees engaged in the Florida war; but, with the aid of that sum, and the application of their annuity, the debt claimed by the memorialist might be paid, as alleged by the chiefs in their petition.

The committee are of opinion that the grounds above set forth are sufficient to form an exception to the rule of policy which, they admit, ought to be pursued by the government; and they therefore report a bill.

rate of \$210 for six months, and for the remaining two months at the rate of \$70 22 only, and it is alleged in the petition before referred to, that if the government would pay the full amount promised by the Statute of War when the company was re-organized, the amount of the debt for which the bill was given might be paid by the time without interfering with the fund created by the treaty of 1831. The committee and that the above statements are in their most material aspects fully sustained by the proofs before them. The sum of not more than about \$2,000 remains unpaid of the whole amount promised the company of 24 whites engaged in the Florida war, but with the aid of that sum, and the application of their annuity, the debt claimed by the restoration might be paid, as alleged by the object in their petition. The committee are of opinion that the grounds above set forth are sufficient to form an exception to the rule of policy which they admit ought to be pursued by the government, and they therefore report a bill